

Upon Mentioning

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

Appeal No. 25/2022(WZ)

Anshika Polysurf Ltd.

Appellant(s)

Versus

GPCB & Ors.

Respondent(s)

Date of hearing: 08.07.2022.

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant(s): Ms. Supriya Dangare, Advocate

ORDER

1. The Learned Counsel for the Appellant has sent us an email requesting for urgent hearing in the present matter. We have decided to hear it today itself.

2. The prayer in the present Appeal is that the closure direction dated 07.06.2022 issued by the Respondent No.1 under Section 5 of Environment (Protection) Act, 1986 for the violation of the Hazardous and other Waste (Management and Tranboundary Movement) Rules 2016 be quashed and the operation of the said order be stayed with immediate effect and further, it is prayed that Respondent be directed to direct Dakshin Gujarat viz Company limited to restore the electricity connection of the Appellant's Unit with immediate effect for safe handling of stock of explosive/hazardous raw materials.

3. The Learned Counsel for the Appellant has argued that before passing the impugned order no opportunity was given to the Appellant to file objections.

4. Further, it is argued that there is large quantity of hazardous material stored in the Unit of the Appellant which is disclosed in Annexure No. E and that if the same is left in the premises unattended an explosion might take place.

5. Further, it is argued that Appellant has valid CCA till 23.06.2024 and also Environmental Clearance and that though the justification has been given for passing the closure order but all the justifications are unsubstantiated and denied.

6. During arguments, it was also pointed out by Learned Counsel appearing for the Appellant that no compliance was made by the Respondent No.1 before passing the impugned order, of the provisions mentioned in Clause 4 of Sub Clause 3 (a) and 3(b) of the Environment (Protection) Act, 1986 which are as follows:-

“3(a) The person, officer or authority to whom any direction is sought to be issued shall be served with a copy of the proposed direction and shall be given an opportunity of not less than fifteen days from the date of service of a notice to file with an officer designated in this behalf the objections, if any, to the issue of the proposed direction.

3(b) Where the proposed direction is for the stoppage or regulation of electricity or water or any other service affecting the carrying on any industry, operation or process and is sought to be issued to an officer or an authority, a copy of the proposed direction shall also be endorsed to the occupier of the industry, occupier or process as the case may be an objections if any, filed by the occupier with an officer designated in this behalf shall be dealt with in accordance with the procedures under sub-rules (3-a) and (4) of this rule:

Provided that no opportunity of being heard shall be given to the occupier if he had already been heard earlier and the proposed direction referred to in sub-rule (3-b) above for the stoppage or regulation of electricity or water or any other service was the resultant decision of the Central Government after such earlier hearing.”

7. The matter requires consideration.
8. Issue notices to the Respondents, returnable by 13.07.2022.
9. Appellant is directed to provide copy of the Appeal and relevant documents to the Respondents within two days from today.
10. Respondents are directed to submit their Reply Affidavits before the next date of hearing.
11. Appellant is also directed to take necessary steps for service upon the Respondents by both ways i.e. by Dasti and also through available email.

List the matter on 13.07.2022.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 08, 2022
Appeal No. 25/2022(WZ)
JG